



LOUISIANA DEPARTMENT OF INSURANCE

REGULATION 78

LIFE & ANNUITY - POLICY FORM FILING REQUIREMENTS

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- 1. FILING REQUIRED** – Pursuant to R.S. 22:620.A, no *Basic Insurance Policy Form*, or application form where written application is required and is to be attached to the policy or be a part of the contract, or printed *Rider* or *Endorsement* form, may be issued or delivered in this state unless and until it has been filed with and approved by the Commissioner of Insurance. This requirement also applies to any group life insurance policy or annuity covering residents of Louisiana where issued or delivered in Louisiana.
- **Every page of each such form, including *Rider* and *Endorsement* forms, filed with the *Department* must be identified by a form number in the lower left corner of the page.** (§10109.B.1)
 - **A Life and Annuity Transmittal Document must accompany every filing, describing the items included in the filing, the *Insurance or Annuity Product* for which the filing is being made, and the *Method of Marketing* to be used for the product.** (§10109.B.2)
 - **There are over 200 defined Life Insurance and Annuity Product Codes for the various types of life *Insurance Products*.**
 - **The primary types of products include Individual Life, Fraternal Life, Group Life, Individual Annuity, Fraternal Annuity, and Group Annuity.**

2. **STATEMENT OF COMPLIANCE** – This form must accompany every filing, other than those listed under Section 8 for EXCEPTIONS. The Statements of Compliance provided by the *Department* are generated by the Policy Form Matrix (PFM). The PFM links all defined *Insurance Product* Codes to each provision of state and federal law applicable to the content and administration of an *Insurance Product*.

Insurers must review the requirements for regulatory compliance in conjunction with the policy forms to be filed and identify the section / page number of the forms where compliance is demonstrated. This information must be entered on the *Statement of Compliance* for each *Life Insurance and Annuity Product* included with a submission.

- The PFM screen view includes all legal requirements applicable to both content and administration of an Insurance Product.
- The *Statement of Compliance* form includes only those legal requirements applicable to the policy form filing.
- State and federal Rules, Regulations, Bulletins and Directives are included.
- Related laws are cross-referenced and helpful comments are provided where appropriate.
- The PFM will be updated on a regular basis, allowing for immediate changes to affected *Statements of Compliance*.

(§10109.B.2; C.2.a; & C.2.b)

3. COMPLIANCE REVIEW; AFFIRMATIVE APPROVAL – Time periods and requirements for *Compliance Review of Basic Insurance Policy Forms* (§10109.E)

- The time periods stated herein do not begin until the date a *Complete Filing*, or a filing pursuant to Section 8 for Exceptions, is received by the *Department*.
- If a filing made is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of Regulation 78.
- A *Basic Insurance Policy Form* must be submitted to the *Department* in accordance with the requirements of Regulation 78 no less than 45 days in advance of planned issuance, delivery or use.
 - If *Affirmatively Approved* by the *Department* prior to expiration of the 45-day period allowed for department review of a filing, the policy forms filed may be used on or after the date approved.
 - If disapproved, the policy forms filed may not be used.
 - At the expiration of 45 days, if no order has been issued affirmatively approving or disapproving a filing, the *Insurer* may submit written notice to the *Department* that the filing has been *Deemed Approved* on a specific date, or advise when the filing is withdrawn from consideration.
 - *Deemed approval* shall not be effective until the *Insurer* has so notified the *Department*, by either ordinary mail, facsimile transmission or electronic mail.
- The Commissioner of Insurance may send written notice prior to expiration of the initial 45-day period extending the time allowed for approval or disapproval by an additional 15 days.
 - If affirmatively approved by order of the Commissioner prior to expiration of the 15-day extended period allowed for department review, the policy forms filed may be used on or after the date approved.
 - At the expiration of the 15-day extended period, if no order has been issued affirmatively approving or disapproving the policy form filing, the *Insurer* may submit written notice to the *Department* that the policy forms filing has been *Deemed Approved* on a specific date, or advise when the policy forms filing is withdrawn from consideration.
 - *Deemed Approval* shall not be effective until the *Insurer* has so notified the *Department*, by either ordinary mail, facsimile transmission or electronic mail.

4. CERTIFICATION OF COMPLIANCE – Time periods and requirements for *Certified Approval* of policy form filings.

Effective May 1, 2003, Directive Number 174 designates those *Insurance Products* which must be filed pursuant to the requirements for *Certified Approval* and also those *Insurance Products* which may, at the discretion of the *Insurer*, be filed either pursuant to said requirements for *Certified Approval*, or as ordinary filings subject to the requirements for *Compliance Review*. (§10109.C.1)

A policy form filing submitted for *Certified Approval* must include a *Statement of Compliance* applicable to the form of coverage and contract type being submitted, a signed and dated Certification of Compliance and all other items required to constitute a *Complete Filing*. When selecting an *Insurance Product* in the Policy Form matrix in order to obtain the required *Statement of Compliance*, the *Certification of Compliance* form will also appear if it is either required or optional for the *Insurance Product* selected. (§10109.F)

- If the filing is incomplete, notice of disapproval in accordance with R.S. 22:621(6) will be issued for failure to comply with the requirements of Regulation 78.
- At the expiration of 15 days from acknowledged receipt of a filing by the *Department*, if no order has been issued affirming *Certified Approval* or disapproving the policy form filing, the *Insurer* may submit written notice to the *Department* that the policy forms filing has been *Deemed Approved* on a specific date, or advise when the policy forms filing is withdrawn from consideration.
- *Deemed Approval* shall not be effective until the *Insurer* has so notified the *Department*, by either ordinary mail, facsimile transmission or electronic mail.

No *insurer*, or officer, employee or representative of an *Insurer*, shall file a *Certification of Compliance* containing false attestations, or from which material facts or information have been omitted. In the event that the *Department* subsequently learns that a *Certification of Compliance* contained any inaccuracies, false attestations, or material omissions, approval of the subject forms may be withdrawn, and the *Insurer* may be subjected to withdrawal of approval and corrective action as set forth in §10109.I of Regulation 78.

5. REQUIRED FILING FEES – See Directive Number 02-168

- The filing fee for each company filing of life insurance or annuity policy forms with the *Department of Insurance* is – \$100 per *Insurance Product*.
- Certain **EXCEPTIONS** to the requirements for a *Complete Filing* do not require payment of a filing fee. (See below, Section 8 Exceptions.)

NOTE: THE MOST COMMON CAUSE FOR AN INCOMPLETE FILING IS PAYMENT OF AN INCORRECT FILING FEE. PLEASE CALL (225) 342-1226 IF ASSISTANCE IS NEEDED IN DETERMINING THE PROPER AMOUNT.

6. **COMPLETE FILING** – Other than as specified as an **EXCEPTION**, only *Complete Filings* will be accepted. In order for the *Department* to conduct a proper *Compliance Review* or *Compliance Audit* of an *Insurance Product*, all items associated therewith must be included. **A FILING WILL BE DETERMINED INCOMPLETE AND WILL BE DISAPPROVED IF IT DOES NOT CONTAIN ALL APPLICABLE ITEMS.** (§10109.C.2)

a. All filings of individual life insurance or annuity products must include in final wording, the following items, in order. (§10109.C.2.a)

- i. *Required Filing Fee*, per *Insurance Product*, per insurance company;
- ii. Completed Life and Annuity Transmittal Document;
- iii. *Statement of Compliance* for said product;
- iv. Policy forms filed for approval, in duplicate;
- v. Application form, in duplicate;
- vi. *Rider* or *Endorsement* forms, in duplicate;
- vii. Actuarial Memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance, in duplicate;
- viii. Life Illustrations, if illustrated, in duplicate; and
- ix. Stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

➤ If the filing will include health insurance to be offered as an optional benefit under the base life insurance contract, the policy forms should be submitted in triplicate, and include the appropriate *Statement of Compliance* for said health *Insurance Product*. (§10109.B.2)

b. Filings of all group life and annuity products must include, in final wording, the following items. (§10109.C.2.b)

- i. *Required Filing Fee*, per *Insurance Product*, per insurance company.
- ii. Completed Life and Annuity Transmittal Document;
- iii. *Statement of Compliance* for said product;
- iv. Group Master Contract, in duplicate;
- v. Individual Certificate, in duplicate;
- vi. Group Application, in duplicate;
- vii. *Rider* or *Endorsement* forms, in duplicate;
- viii. Employee/Member Enrollment forms, in duplicate;
- ix. Actuarial Memorandum describing the statutory reserves and non-forfeiture values that will be used for each plan of insurance, in duplicate; and
- x. Stamped, self-addressed envelope of sufficient size for use in returning the company's set of the policy forms filed, unless filed electronically.

c. Filings of group life and annuity products intended for issue to an *Association* are limited to associations as defined in Regulation 78 and must include the Association's: (§10109.C.2.c)

- Constitution;
- By-laws;
- Membership application;
- Membership agreement; and
- Brochure of membership benefits other than the *Insurance Products* offered.

d. Filings of group life and annuity products intended for issue to a *Trust* are limited to trusts established by an employer or *Association* and must include:

- *Trust* agreement;
- Articles of incorporation or other instrument creating the *Trust*;
- Member adoption agreement; and
- If the *Trust* was established by an *Association*, include the information required in Section 6.c above. This requirement does not apply to *Trusts* established by qualified or government pension plans. (§10109.C.2.d)

7. AMENDMENT OF APPROVED PRODUCTS NO LONGER BEING MARKETING – Filings of amendatory *Riders* or *Endorsements* as needed to bring into compliance with law any existing life insurance or annuity products that have been previously approved and are currently in force, but are no longer being marketed, must include:

- All items necessary to constitute a *Complete Filing*;
- Specimen copies of the pertinent previously approved forms;
- Dates previously approved;
- The specific terms and provisions being amended, underlined in red or otherwise noted; and
- The Life and Annuity Transmittal Document should advise that the previously approved form is no longer being marketed.

(§10109.C.2.e)

8. **EXCEPTIONS** – Exceptions to the requirements for a *Complete Filing* may be allowed, at the discretion of the *Department*, subject to the conditions stated herein, for the following policy forms. A completed *Statement of Compliance* is not required for the following filings. (§10109.D)

- **Application forms** to be used with a particular life insurance or annuity product, or with multiple life insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the application form will henceforth be used, and the application form is included with any subsequently filed *Basic Insurance Policy Forms* as needed to constitute a *Complete Filing*. No filing fees will be required for these filings.
- **Assumption certificates**, which must be filed in duplicate, with a single copy of the assumption agreement, letter of domiciliary state approval, information fully identifying the block of business being assumed, the number of covered lives residing in Louisiana to be affected by the assumption, and the effective date of the assumption. No filing fees will be required for these filings.
- **Riders or endorsement forms** affecting previously approved life insurance or annuity products, provided that the policy form filings and dates approved are identified for each previously approved product with which the rider or endorsement form will henceforth be used. No filing fees will be required for these filings. The rider or endorsement form shall be included with any subsequently filed *Basic Insurance Policy Forms* as needed to constitute a *Complete Filing*.

9. RESUBMISSION OF REVISED FORMS, PREVIOUSLY DISAPPROVED – When submitting revised forms in response to an order of disapproval, or withdrawal of approval, the revised forms will constitute a new filing. Such resubmission must comply with all requirements for a *Complete Filing* and include the following:

- *Required Filing Fee*;
- Outline of the proposed revisions, referencing the specific sections and page numbers for each form being revised;
- Restatement of the form with all necessary revisions, as set forth in the prior order of disapproval, underlined in red or similarly emphasized; and
- Copy of the prior order of disapproval, or withdrawal of approval, issued by the *Department* on the previous filing.

(§10109.G.1)

10. RESUBMISSION OF REVISED FORMS, PREVIOUSLY APPROVED – When submitting revisions to previously approved forms, the revised forms will constitute a new filing. Such resubmission must comply with all requirements for a *Complete Filing* and include the following:

- *Required Filing Fee*;
- Copy of the previously approved form;
- Outline of the proposed revisions, referencing the specific sections and page numbers for each previously approved form being revised;
- Restatement of the form, with all proposed revisions underlined in red or similarly emphasized; and
- Copy of the prior order of approval, issued by the *Department* on the previous filing.

(§10109.G.2)

➤ **It is advisable that a unique form number be assigned to a substantially rewritten form, and that such form be filed as an original filing.** (§10109.G.3)

11. COMPLIANCE AND AUDITS –

- Approval of a *Basic Insurance Policy Form* does not assure perpetual compliance. Following subsequent changes in applicable law, *Insurers* shall not fail to revise and file updated *Insurance Products*, or amendatory *Riders* or *Endorsements* where appropriate, with the *Department* for approval as required to maintain continuous compliance with the current requirements of law. This provision shall apply to all new business issued, or in-force business renewed, following any such subsequent changes in applicable law, or as otherwise determined by the Louisiana Legislature. (§10109.H.1)
- A retrospective review process will be utilized to verify compliance of approved filings and to assure that all approved filings remain in compliance with currently applicable law. *Compliance Audits* may be conducted by random selection, prompted by complaints filed with the *Department* or requests for information made by the *Department*, or performed during the course of examinations conducted by the *Department*. (§10109.H.2)

12. PERMANENT WITHDRAWAL OF APPROVED FORMS – *Insurers* shall notify the *Department* in writing to advise when a previously approved *Basic Insurance Policy Form* will no longer be marketed in this state and is being permanently withdrawn from the market. Such notification shall also:

- Advise whether or not coverage issued in this state under the policy form remains in force;
- Whether or not such existing business will continue to be renewed;
- Provide the policy form numbers being discontinued; and
- Dates originally approved by the *Department*.

(§10109.H.3)

13. APPEALS / HEARINGS – Any *Insurer* or other person aggrieved by a failure to approve any filing, or the disapproval of any filing, or the withdrawal of approval of any filing, or any related action taken by the *Department* pursuant to §10109 of Regulation 78, may request an administrative hearing in accordance with the provisions of Part XXIX of Title 22 of the Louisiana Revised Statutes. Pursuant to R.S. 22:1351, such demand must be in writing, must specify in what respects the company is aggrieved and the grounds to be relied upon as basis for relief to be demanded at the hearing, and must be made within 30 days of receipt of actual notice or, if actual notice is not received, within 30 days of the date such *Insurer* or other person learned of the act, or failure to act, upon which the demand for hearing is based. (§10109.J)

14. MAINTENANCE OF RECORDS; ALTERATION OF FORMS PROHIBITED – Every *Insurer* or other person filing policy forms, or related forms, for approval by the *Department* shall maintain in their files the original set of any and all forms as returned by the *Department*, along with all related correspondence and transmittal documents from the *Department*. Alternatively, images of such documents may be maintained in electronic/digital form. (§10109.K)

- Such files shall be available for inspection by the *Department* upon request, and must be maintained until the forms have been withdrawn from the market and no coverage issued on risks in this state utilizing such forms remains in force.
- The alteration of, or any change to, any such form approved by the *Department* is prohibited. Any such altered or changed form shall be submitted to the *Department* as a new filing, and shall comply with all provisions of Regulation 78, §10109 applicable to a new filing. **This requirement does not apply to typographical corrections and format improvements that do not affect the terms, provisions or clarity of the product.**
- **A change of company name or logo, a change of address, and changes in listed officers** do not require a new filing of forms when the *Department* is otherwise properly notified of such change, and a copy of such notification is maintained on file by the *Insurer*.

15. Definitions – As used in these instructions and Regulation 78, the following terms shall have the meaning or definition as indicated herein. (§10109.A)

- *Affirmative Approval* – department approval, as a result of the department taking action, following *compliance review* of a complete filing, or a filing pursuant to §10109.D.
- *Association* – an organization which has been formed for purposes other than procuring insurance for the members or employees.
- *Basic Insurance Policy Form* – an insurance contractual agreement delineating the terms, provisions and conditions of a particular insurance or annuity product. It includes certificates of coverage, application forms where written application is required and is to be attached to the policy or be a part of the contract, and any life or health and accident rider or endorsement form. It does not include policies, riders, or endorsements designed, at the request of the individual policyholder, contract holder, or certificate holder, to delineate insurance coverage upon a particular subject or which relate to the manner of distribution of benefits or to the reservation of rights and benefits under such policy.
- *Certification of Compliance* – certification by an *insurer*, executed by an officer or authorized representative of the *insurer* on a form prescribed by the department, that upon knowledge and belief a filing is complete and in compliance with all applicable statutes, and rules and regulations promulgated by the department. A *Certification of Compliance* must be included with any filing for *certified approval*.
- *Certified Approval* – expedited approval by the department of a complete filing based upon the inclusion of a *Statement of Compliance* and a *Certification of Compliance*, executed by an officer or authorized representative of the filing *insurer* on a form prescribed by the department. The department shall by *directive* determine those specific types of coverage and particular types of contracts for which the *certified approval* procedure is either required or available at the option of the *insurer*.
- *Complete Filing* – the filing of a single insurance product, including any required filing fees, a basic insurance policy form, application form and supplemental application form, if any, to be attached to the policy or be a part of the contract, any life or health and accident rider or endorsement forms, all items required under §10109.C, "General Filing Requirements," and any other requirements as may be set forth in the applicable *Statement of Compliance*.
- *Compliance Audit* – a retrospective review conducted by the department of previously approved basic insurance policy forms to determine compliance with applicable law.
- *Compliance Review* – department review of a filing made pursuant to §10109 to determine either that the filing is in compliance with all applicable statutes, rules and regulations, or that the filing should be disapproved for noncompliance.
- *Deemed Approval* – approval of a *complete filing* based upon notice, as provided in §10109.E and F, made to the department by the filing *insurer*, following expiration of the specific time periods as provided in §10109.E and F, where *affirmative approval* has not been granted and the filing has not been disapproved by the department.

- *Department* – the Louisiana Department of Insurance, and includes the Commissioner of Insurance.
- *Endorsement* – a written agreement attached to an insurance product to add or subtract coverage, or otherwise modify the product.
- *Insurance Product* – a basic insurance policy form delineating the terms, provisions and conditions of a specific type of coverage under a particular type of contract.
- *Insurer* – every person engaged in the business of making contracts of insurance, as further defined in R.S. 22:5. As used in §10109, *insurer* shall also include fraternal benefit societies.
- *Method of Marketing* – marketing either through independent or captive agents; telephone, e-mail or direct mail solicitation; groups, organizations, associations or trusts; and/or the Internet.
- *Required Filing Fee* – the fee assessed per product or filing pursuant to state insurance law.
- *Rider* – an endorsement to an insurance product that modifies clauses and provisions of the product, including adding or excluding coverage.
- *Statement of Compliance* – a form prescribed by the department detailing the requirements specific to a particular form of coverage and contract type.
- *Trust* – a fund established by an employer, two or more employers, a labor union, or an association, pursuant to a trust instrument which transfers title to property and/or funds to one or more trustees to be administered as fiduciaries for the benefit of others.